S.B.CIVIL WRIT PETITION NO.5971/2007

Dhan Raj
v.
The Director, Panchayati Raj Department, Government of Rajasthan, Jaipur and others.

Date of Order :: 18th September, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.S.Shekhawat, for the petitioner.

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The 10 Ward Panchas of the Gram Panchayat Sinla submitted an application for initiating proceedings to consider no confidence motion against the petitioner and acting upon that a meeting of the Gram Panchayat was called on 26.6.2007.

By questioning membership of two Ward Panchas namely Vijay Singh and Tulsa Ram, who signed the application referred above, the petitioner preferred a writ petition (SBCivil Writ Petition No.3744/2007) wherein this Court by an order dated 22.6.2007 stayed operation of notice dated 8.6.2007 whereby the Chief Executive Officer, Zila Parishad, Pali fixed meeting of Gram Sabha on 26.6.2007 to consider motion of no confidence against the petitioner.

In the writ petition aforesaid an application was preferred by 10 Ward Panchas at the

instance of whom motion of no confidence was initiated for becoming party to the proceedings with specific averment that Sarva Shri Vijay Singh and Tulsa Ram attended all the meetings of Gram Panchayat as well as of Gram Sabha as and when it was held and they were duly paid by Gram Panchayat for attending such meetings. It was also stated in the application that the petitioner annexed false and forged documents alongwith the writ petition including the document said to be issued by Gram Sewak.

An additional affidavit was also filed thereafter by one Shri Bhanwar Singh Verma said to be Gram Sewak of Gram Panchayat Sinla stating therein that the Ward Panchas pressurised him to certify presence of Shri Dungar Ram and Shri Vijay Singh in meetings of Gram Sabha and Gram Panchayat. Relevant to note that in the additional affidavit Shri Bhanwar Singh stated that “the contents of said additional affidavit have been drafted by my counsel under my instructions”, though Shri Bhanwar Singh was not party to the proceedings and no counsel was appearing on his behalf.

The writ petition aforesaid by order dated 23.8.2007 was dismissed as withdrawn. After dismissal of the writ petition the respondents again initiated proceedings to consider motion of no confidence, hence this petition for writ is preferred.

The reason to challenge re-initiation of the proceedings relating to consider no confidence motion is the same as it was in earlier writ petition (SBCivil Writ Petition No.3744/2007). It is stated by counsel for the petitioner that during pendency of first writ petition and after its disposal the petitioner made several efforts to satisfy the respondents that the applicants Vijay Singh and Dungar Ram cannot be treated as members of Gram Panchayat and, therefore, at their instance no proceedings to consider no confidence motion could be initiated.

It is strange that for the same cause the petitioner preferred a writ petition earlier, an interim order was passed in his favour and after getting the motion of no confidence frustrated he withdrew the petition for writ. He has again approached this Court with the same grounds without disclosing the fact about submission of application by 10 members of the Gram Panchayat for becoming party in the proceedings of writ petition No.3744/2007 wherein they disputed the fact about absence of Dungar Ram and Vijay Singh in meetings of the Gram Sabha and Gram Panchayat. It is also pertinent to note that in entire petition for writ the petitioner did not choose to disclose the actual strength of the Gram Sabha and the effect of exclusion of two Ward Panchas from the membership of Gram Panchayat. However, from resolution

dated 8.6.2007 it reveals that the Gram Panchayat Sinla is having membership of 11 Ward Panchas including the petitioner and out of those 10 have submitted application to initiate proceedings for considering no confidence motion against him. As per the strength of Gram Sabha, even if, the contention of petitioner be accepted then too the notice to make the motion signed by 8 Ward Panchas out of 11 is sufficient for initiating proceedings for no confidence motion in view of the provisions of Section 37(2) of the Rajasthan Panchayat Raj Act, 1994.

Thus, the petition for writ is having no merit. The same, therefore, is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.